

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 14529 of 1993

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO

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DOLATSINH GENSINH DABHI

Versus

DIVISION CONTROLLER

Appearance:

1. Special Civil Application No. 14529 of 1993
MR MUKESH H RATHOD for Petitioner No. 1
MR HS MUNSHAW for Respondent No. 1
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CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 19/06/2002

ORAL JUDGEMENT

#. It is unfortunate that, even though the Labour Court has taken a very liberal view of the matter by directing the S.T.Corporation to provide alternate employment to the petitioner, yet the petitioner has thought it fit to

challenge even the said order by filing this petition. Not only that, but the same is strenuously argued by Mr.Upadhyay, learned counsel, for the petitioner.

#. The facts of the petition are as follows.:-

#. The petitioner was serving as Badli Driver in the S.T.Corporation. In the year 1979, while he was driving the bus, he drove the bus in such a manner that it resulted in a major accident and two passengers in the bus received serious injuries. In view of the aforesaid rash and negligent driving of the petitioner, who was serving as Badli Driver at the relevant time, the S.T.Corporation decided not to continue his services as Badli Driver any further. The said decision was challenged by the petitioner by raising the industrial dispute. The matter was referred to the Labour Court, Ahmedabad and it was numbered as Reference LCA No.2045 of 1987. The case of the S.T.Corporation before the Labour Court was that the petitioner was merely a Badli Driver and looking to the aforesaid serious misconduct, by which the Corporation suffered heavy financial loss, it was decided not to continue his services as Badli Driver any further. The Labour Court came to the conclusion that, even though the petitioner is a badli worker, he should have been provided with alternate job instead of terminating his services. The said termination order was set aside and the S.T.Corporation was directed to provide alternate job to the petitioner. The S.T.Corporation has not challenged the aforesaid order, instead they complied with the same and the Court is being informed that the petitioner has been employed as Peon by providing him with alternate job. However, the petitioner - employee has challenged the aforesaid order on the ground that, he has not been given back wages and no benefit of continuity of service is given.

#. I have heard Mr.Upadhyay, learned counsel, for the petitioner, at length. In my view, the Labour Court has taken a very liberal view by asking the S.T.Corporation to provide alternate job. It is not in dispute that, in view of rash and negligent driving on the part of the petitioner, two passengers in the bus received serious injuries and there was serious damage to the bus of the Corporation. Still, considering the fact that the petitioner was serving as Badli Driver, the Labour Court gave direction to the Corporation that the petitioner should be given alternate employment and the Corporation accepted the award by appointing him as a peon. It is required to be noted that, in view of rash and negligent driving of the petitioner, even the Corporation suffered

heavy financial loss and two passengers in the bus have received serious injuries. Now, since the petitioner has already been given alternative employment, this is not a case in which any back wages can be given to the petitioner.

#. Considering the facts and circumstances of the case, I do not find any substance in the argument of Mr.Upadhyay that, back wages should be awarded to the petitioner. In fact, because of the aforesaid conduct of the petitioner, the Corporation has suffered heavy financial loss. However, since the S.T.Corporation has not challenged the award of the Labour Court, now, there is no alternative for this Court, but to confirm the award of the Labour Court regarding providing alternate employment to the petitioner. There is no question of granting any other benefit to the petitioner as prayed for by the petitioner in this petition. This petition is absolutely without any merit, and therefore, the same is dismissed with costs which is quantified at Rs.2000/(Rupees two thousand only). Rule is discharged with costs as quantified above.

(P.B.Majmudar, J)
(pathan)